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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,340	01/18/2002	Eric Lauper	217864US2PCT	6484
22850	7590	02/08/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			CHAWAN, SHEELA C	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,340

Applicant(s)

LAUPER ET AL.

Examiner

Sheela C Chawan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18-34.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19- 26, 28- 34 is/are allowed.
- 6) ☒ Claim(s) 18 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/18/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Preliminary Amendment

1. Preliminary amendment filed on 1/18/02 has been entered.

Claims 1-17 are cancelled.

New claims 18-34 are added.

Drawings

2. The Examiner has approved drawings filed on 1/18/02.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 18 and 27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,803,887 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because. The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming the common subject matters as follow.

As to claim 18, a transaction method in which object picture data relating to a transaction object are made visible to a user (U.S. Patent No. (6,803,887B1), teaches see claim 1, (column 8, lines 1-3), in which eye features of the user are determined (U.S. Patent No. (6,803,887B1), teaches see claim 1, (column 8, lines 4-6) and in which the determined eye features are linked in a transaction record to object data relating to the transaction object and containing at Least an object identification of the transaction object (note, eye features corresponds to picture segment, (U.S. Patent No. (6,803,887B1), teaches see claim 1, (column 8, lines 7- 9), and the transaction record is transmitted to a processing unit (U.S. Patent No. (6,803,887B1), teaches see claim 1, (column 8, lines 10-13), wherein the eye features of the user are determined while the object picture data , made visible, is being viewed by the user, (U.S. Patent No. (6,803,887B1), teaches see claim 1, (column 8, lines 10- 14).

As to claim 27 see the rejection of claim 18 above.

Allowable Subject Matter

5. The following is an examiner's statement of reasons for allowance:

Claims 19-26, 28- 34 are allowed. The present invention is directed to the field of a transaction method in which object picture data relating to a transaction object are made visible to a user, in which eye features of the user are determined and in which the determined eye features are linked in a transaction record to object data relating to the transaction object and containing at least an object identification of the transaction object, and the transaction record is transmitted to a processing unit, wherein the eye features of the user are determined while the object picture data , made visible, is being

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viewed by the user. Each of the independent claims recites this limitation, which is not disclosed in the prior art. The closest prior art Furness, III et al., (US.6,639,570 B2) discloses retinal display scanning of image with plurality of image sectors. Furness, III et al., (US.5,659,327) discloses virtual retinal display. Nakisa (US.6,651,880 B1) discloses data processing apparatus including an output display. Each of the above references either singularly or in combination, fail to anticipate or render the above limitation obvious.

Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela C Chawan whose telephone number is 703-305-4876. The examiner can normally be reached on Monday - Thursday 8 - 6.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sheela Chawan
Patent Examiner
Group Art Unit 2625
Jan 31, 2005